

**From:** Carl Weissman [cweissman@acceleratorcorp.com]

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**To:** restructure.sizestandards@sba.gov

**Subject:** RIN 3245-ZA02

To Whom It May Concern:

I am the President & CEO of Accelerator Corporation ([www.acceleratorcorp.com](http://www.acceleratorcorp.com)), and as well am a Venture Partner at MPM Capital ([www.mpmcapital.com](http://www.mpmcapital.com)), a life sciences focused venture capital investment partnership. In this dual role, I am both facilitating investments in and then managing and developing emerging biotechnology companies and technologies.

The 2003 determination of the SBA Office of Hearings and Appeals that venture capital firms are not "individuals" in terms of ownership criteria for eligibility for SBIR grant awards has had a markedly chilling effect on the amount of private capital that is invested in small early-stage biotechnology companies. This, in turn, has done enormous harm to the development of the next generation of life-enhancing biotechnologies, including potential therapies and diagnostics for life-threatening diseases.

Any examination of the pharmaceuticals industry will reveal that the vast majority of the most important drugs that have come onto the market in the past twenty years were not invented in large pharmaceutical companies. Most in fact were invented in academic institutions or small private biotech companies, and those that were invented in academic institutions were often licensed to small private biotech companies for their early development. The large pharmaceutical companies that now own and market these drugs obtained them through licensing from or acquisitions of these small biotech companies.

However, these small private biotechnology companies are by-and-large nowhere near profitability (many, in fact, have no revenues at this stage) and virtually all of their funding has traditionally come from private investors, most notably venture capital firms. The above noted interpretation has the consequence, whether intended or unintended, of discriminating against one class of private equity investors by making SBIR awards not available to any company majority owned by venture capital funds. This then has the surely unintended consequence of making a venture capital investment in an early stage private biotechnology company more risky than an investment in the SAME COMPANY by private individuals (i.e. if the private individuals invest, they can access non-dilutive SBIR funding which decreases the funding risk of the company - that same leverage is not available to the venture capital firms). What possible justification is there for favoring one source of private equity capital over another in investing in the same company?

This discriminatory practice and the unintended increased risk it has placed on venture capital investors has had the effect of contributing significantly to reduced investment in early-stage biotechnologies. Any action for which the consequence is reduced funding for early-stage biotechnologies has the future consequence of delaying or perhaps even eliminating access to a number of ground breaking therapies - this is a tremendous future blow to public health.

One clear intent for the creation of the SBIR program was to "attract private capital to commercialize the

results of Federal research.” (See S. Rep. No. 97-194, 97th Cong., 1st Sess. 1981, reprinted in 1982 U.S. C.A.A.N. 512) Congress continued to emphasize the necessity of private capital for commercialization by stating that “in assessing Phase II proposals of approximately equal scientific and technical merit, agencies shall give special consideration to recipients of Phase I grants that have attracted private sector funding commitments to pursue commercial applications of the research.” As noted above, venture capital funds provide much if not most of the funding available to private biotech companies. The SBA cannot execute upon the stated and clear intent of Congress in establishing the SBIR program if it eliminates from consideration ANY company which is primarily funded by the largest providers of private capital to private biotech companies - venture capital funds.

Thank you for your consideration,

Carl Weissman

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